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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,844	07/23/2003	Shane Dexter	PTG 02-75-2	9281
23531	7590	12/14/2004		
SUITER WEST PC LLO 14301 FNB PARKWAY SUITE 220 OMAHA, NE 68154			EXAMINER HOGAN, JAMES SEAN	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,844	Applicant(s) DEXTER, SHANE	
	Examiner James S Hogan	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,18,19,33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,10-17,20-32,and 35-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. Figure 1, first embodiment apparatus
- II. Figure 5, second embodiment apparatus
- III. Figures 6, third embodiment apparatus

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 27, and 41 appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Sean Patrick Suiter (Reg. No. 34,260) on October 18, 2004 a provisional election was made with traverse to prosecute the invention of Figure 1, claims 1-7,10-17,20-26,27-32,35-40, 41-46,49-54. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-9, 18-19 and 33-34 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore:

a) The "descriptive markings comprising a plurality of guide positions for a plurality of impingement angles" (claims 5, 30 and 44);

b) The "friction interface for locking the guide against the lance for providing a plurality of locking positions" (claims 20, 35 and 49);

c) The "interference protrusion for locking the guide against the lance for providing a plurality of locking positions": (claims 21, 36, and 50);

d) The “plurality of teeth for locking the guide against the lance for providing a plurality of locking positions” (claims 22, 36 and 51);

e) The “plurality of grooves for locking the guide against the lance for providing a plurality of locking positions” (claims 23,37, and 52); must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 10, 21, 24, 26-27, 36, and 39-40 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,508,709 to Serbousek et al.

Referring to claims 1-2, 10, 21, 24, 26-27, 36, and 39-40, Serbousek et al. ('709) discloses a pressure sprayer with a guide (9), a spray nozzle (5) adjustably (slideably) coupled with the guide a wheel (19) rotationally connected to the guide for supporting the guide upon the surface, the wheel having an axis of rotation; and a fluid supply (H) from a fluid delivery system (not shown). As for claims 10, 26, and 40 the wheel shown in the Serbousek et al. ('709) device is understood to accurately portray a caster. As for claims 21, 24, 36, 39, the guide on the device of Serbousek et al. ('709) is comprised of an interference protrusion, in the form of a set screw (means (37) within the sliding sleeve (35), Col. 3, line 47). The invention of Serbousek et al. ('709) in, figure 2, shows an embodiment where, by adjusting the position of the sleeve (35) along the pole (1), the nozzles are lifted to a position centered over the axis of the wheels, thereby creating a scenario in which the spray will intersect the axis.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-46, 3-7, 11-17, 25, 28-32, 50, 53-54 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,508,709 to Serbousek et al. and further in view of U.S. Patent No. 4,489,251 to Bresnen.

Referring to claims 41-42, 11-12 and 25 Serbousek et al. ('709) discloses a pressure surface cleaner with a guide (9), a series of spray nozzles (5) adjustably (slideably) coupled with the guide a wheel (19) rotationally connected to the guide for supporting the guide upon the surface, the wheel having an axis of rotation; and a fluid supply (H) from a fluid delivery system (not shown). As for claim 54 the wheel shown in the Ginther et al. ('027) device is understood to accurately portray a caster. As for claims 50, and 53, the guide on the device of Ginther et al ('027) is comprised of an interference protrusion, in the form of a set screw (11). The invention of Serbousek et al. ('709), does not show an embodiment with a spray lance where a pressurized fluid stream from the lance would intersect the axis of rotation of the wheel. However, the invention of Bresnen ('251) discloses a pressurized fluid lance (10) that could be adjustably coupled to the guide of Serbousek et al. ('709). Therefore, it would be obvious to one skilled in the art at the time the invention was made to modify the device of Serbousek et al. ('709) with the lance of Bresnen ('251) to direct the fluid stream spray of a lance onto the intersection of the axis of rotation of the wheel in order to have control of overspray.

Referring to claims 20, 35 and 49, the guide on the device of Serbousek et al. ('709) does not teach a guide held in place with a friction interface. However, the invention of Bresnen ('251) teaches the use of a J-bolt (117) and wing-nuts (119) as a frictional interface for locking the guide against the lance. Therefore, it would be obvious to one skilled in the art at the time the invention was made to modify the device of Serbousek et al. ('709) with the frictional interface of Bresnen ('251) to secure the guide to the lance in but have a slidable adjustability to the lance. As for claims 22-23, 37-38, and 51-52, the obviousness of securing the guide is extended, as the guide can be held in place by any known-in-the-art means of fasteners, or devices, whether it is by way of a plurality of grooves or teeth.

Referring to claims 3-7, 13-17, and 28-32 the device of Serbousek et al. ('709), in does not teach an embodiment where the guide has a plurality of descriptive markings comprising a plurality of guide positions. However, the device of Bresnen ('251), in figure 1, teaches a guide (120) with comprising a plurality of descriptive markings comprising a plurality of guide positions. Therefore, it would be obvious to one skilled in the art at the time the invention was made to modify the device of Serbousek et al. ('709) with the guide that has a plurality of descriptive markings comprising a plurality of guide positions of Bresnen ('251), in order to have a device that can raise and lower the height of a nozzle depending on a desired impingement angle or surface type, of a desired vertical or horizontal surface.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

US Patent No. 3,423,027 to Ginter et al. disclosing a mobile adjustable sprayer

US Patent No. 6,247,658 to Bakas, disclosing a stowable washer for vehicle undercarriages

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10/19/2004
JSH



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